

1

2

3

4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6

7 CHARLES AL-PINE,

Case No. [18-cv-06023-JD](#)

8

Petitioner,

9

v.

10

KENDALL RICHERSON,

ORDER OF DISMISSAL

11

Respondent.

Re: Dkt. No. 3

12

13

Petitioner, a prisoner in Texas, has filed a habeas action, though a review of the petition indicates that he seeks relief pursuant to 42 U.S.C. § 1983. Petitioner argues that he is not receiving enough bread with his meals. Venue generally is proper in a judicial district in which: (1) any defendant resides, if all defendants are residents of the state in which the district is located; (2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) any defendant is subject to the court's personal jurisdiction, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1331(b).

21

22

23

24

25

26

No defendant is located in this district, no actions or omissions giving rise to petitioner's claims took place in this district, and petitioner himself is not in this district. Therefore, this district is not the proper venue for petitioner's claims. *See* 28 U.S.C. 1331. Accordingly, pursuant to 28 U.S.C. 1406(a), this case is **DISMISSED** without prejudice to petitioner filing his civil rights complaint in a federal district court where the venue is proper under 28 U.S.C. 1331.¹

27

28

¹ The Court has already transferred several of petitioner's habeas cases. Because this case would need to be reclassified as a civil rights action with a larger filing fee than a habeas action, petitioner can determine if he wishes to pay the filing fee in Texas. Petitioner is also informed that the continued filing of cases in this district will result in the implementation of filing fees.

1 Petitioner's motion to proceed in forma pauperis (Docket No. 3) is **DENIED**. A Certificate of
2 Appealability is **DENIED**.

3 **IT IS SO ORDERED.**

4 Dated: November 21, 2018

5
6
7 
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JAMES DONATO
United States District Judge

1
2
3
4 CHARLES AL-PINE,
5 Plaintiff,

6 v.
7

8 KENDALL RICHERSON,
9 Defendant.
10

11 Case No. 18-cv-06023-JD

12 **CERTIFICATE OF SERVICE**

13 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
14 District Court, Northern District of California.
15

16 That on November 21, 2018, I SERVED a true and correct copy(ies) of the attached, by
17 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
18 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
19 receptacle located in the Clerk's office.
20

21 Charles Al-Pine ID: TDCJ#:1422624
22 James V. Allred Unit
23 2101 N Farm to Market 369
24 Housing: G-12-F-72-Cell
25 Iowa Park, TX 76367
26

27 Dated: November 21, 2018
28

29 Susan Y. Soong
30 Clerk, United States District Court
31

32 By: 
33 LISA R. CLARK, Deputy Clerk to the
34 Honorable JAMES DONATO
35